

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 97 of the Commission's Rules To Implement WRC-03 Regulations Applicable to Requirements for Operator Licenses in the Amateur Radio Service)	WT Docket No. 05-235
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)	

To: The Commission

Comments in response to and against Russell D. Ward, Jr.'s petition for reconsideration

Russell D. Ward, Jr., has petitioned under Section 1.429 of the Commission's rules, asking that WT 05-235 (and by implication, FCC 06-178) be halted and that the comment period be reopened. Mr. Ward bases his petition on allegations that the email portion of the Electronic Comments Filing System (ECFS) is (or was) flawed, and that such the comment process for the NPRM was in turn flawed to the point of invalidating the rule making process.

I argue that Mr. Ward's petition be dismissed, and in doing so offer the following rebuttals to Mr. Ward's arguments:

1. Mr. Ward argues that email submissions via ECFS were discarded due to misconfiguration of the SMTP server responsible for handling ECFS email submissions, but acknowledges that the FCC indicated that spam filtering was in effect. False positive are a known problem with all automated filtering techniques and do not indicate an active attempt by the Commission to distort the comment making process. Further, such false positives are unlikely to skew comments in favor or against a specific outcome of the rule making process.
2. Email submissions are not the only process by which comments on WT 05-235 could be submitted. Comments could be submitted via the ECFS website or in writing as demonstrated by Mr. Ward's own petition which was apparently submitted via the US mail.

3. Both the ECFS website and the ECFS manual are clear that submissions will generate an explicit acceptance or rejection message, the lack of either being clearly indicative of a failure of the process. Mr. Ward acknowledges that “...Hanson of the FCC indicated that either a positive acceptance or negative rejection reply was sent by FCC ECDS for each comment received...” The fact that Mr. Ward was able to determine that his email submissions were not properly processed is proof that this mechanism works; consequently the possibility that vast quantities of comments were never received by the Commission would require all such submitters ignore the clear statement that a lack of any sort of acknowledgment was indicative of a problem.

4. Mr. Ward alleges that because messages from his W4NI@netscape.net and WA4ZZU@yahoo.com addresses were apparently processed as spam and both contained FCC call signs in the address “...[the] FCC appears to be treating messages from FCC licensees as garbage. [The] FCC is discriminating against radio amateurs of the United States...” There is no evidence to support this wild assertion. Spam filters tend to be particularly suspect of number-and-letter combination user names originating from throw-away addresses available from free email providers such as netscape.com and yahoo.com. To claim wholesale “discrimination” based on his personal experience is absurd; not only was there a clear mechanism in place to indicate if comments were or were not received, there were two other mechanisms by which comments could be submitted. Further, for such a systematic suppression of messages to affect the outcome of the rule making process would require that such messages be suppressed based on content; i.e., discarding messages against the Commission's outcome while accepting messages supporting them. Mr. Ward is hardly the only vocal amateur operator; if this were a widespread problem there would have been a buzz about it a very long time ago.

5. Mr. Ward claims that ECFS auditing is flawed, based on the fact that a single person could not immediately find Mr. Ward's traffic in the log files. This, too, is without merit; having administered mail servers since long before Jonathan Postel wrote RFC 821 for SMTP I know quite well that just because the guy who answers the phone has trouble reading the logs doesn't mean that there's anything wrong with the audit trail.

Mr. Ward's petition for reconsideration of WT 05-235 is based on a set of data comprising two email messages generated by him; he offers nothing other than supposition of a widespread problem that in effect disenfranchised a large number of commentators whose comments, by implication, would have resulted in a different outcome from the rule making process. Mr. Ward fails to provide any evidence of the systematic suppression of comments that he claims existed, ignores the fact that the mechanisms designed to positively indicated receipt of comments worked as designed and the fact that alternate mechanisms existed for submitting comments existed and were utilized by others. Mr. Ward has failed to demonstrate any systematic failure of ECFS, that the mechanism built into ECFS to catch situations precisely of the sort he describes failed to work as designed or that what failures may have occurred would have had any likelihood of swaying the Commission when submissions by the likes of the ARRL failed to do so. As such I submit that Russell D. Ward, Jr.'s petition for reconsideration is without merit and should be dismissed.

Respectfully submitted,

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